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California Energy Commission  
Dockets Office, MS-4  
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# DOCKET

## 10-BAP-1

DATE JUN 11 2010

RECD. JUN 16 2010

### Re: Docket No. 10-BAP-1, Bioenergy Action Plan

Dockets Office:

On June 3rd I testified at CEC's hearing on the 2010 Bioenergy Action Plan. I have been involved in commenting on the Bioenergy Action Plan for the last 5 years or so. I wanted to ensure that one specific comment I made at the hearing was incorporated for the record.

Specifically, California's regulatory structure is anachronistic and very poorly coordinated. There are cross media issues that are not addressed by the current "silo" approach to permitting which can result in regulatory "Catch-22" problems, among other issues. The agencies are well aware of this and other issues even if they have demonstrated little ability to reform themselves. The many meetings that have been held under any number of different forums and auspices have failed to substantively correct the fundamental problems with "silo permitting".

Interestingly, few other States have the same level of permitting problems we do, at least not to the degree of dysfunction that exist here. And yet they are operating under the same regulatory mandates (i.e. Federal Clean Air Act, Clean Water Act, etc). That is in part because many of them operate under a "super agency" arrangement. By that I mean the air and water "divisions" work in the same agency (even if they have regional offices) and there is an "arbiter" that can intervene when there are conflicting requirements or permits. The "arbiter" is typically the head of the given state environmental protection agency. In Massachusetts it is the Department of Environmental Protection (DEP), in New York State it is the Department of Environmental Conservation (DEC) and in Wisconsin it is the Department of Natural Resources (DNR).

Although they are each organized bit differently (and there are many other examples from other States) they share an agency "Chief". That means where there are disagreements, at least there is a potential for a "referee" to step and find a solution. Contrast that to California with its entirely independent air districts and water boards. They don't really answer to anyone and that can result in "pollution shifting". With no one "in charge" to prevent it, sometimes worse overall public health and environmental impact occurs (i.e. stationary to mobile or air to water).

Cal EPA would be the agency to naturally fulfill that role. However, Cal EPA was never empowered to do so. That needs to change if we are going to address barriers to implementing AB 32 solutions, or significant cross media obstacles in our renewable portfolio standard (RPS) or conflicts with the Low Carbon Fuel Standard among many other environmental initiatives.

I would like to see the 2010 Bioenergy Action Plan highlight that issue. Unless we recognize it as perhaps our most intractable hurdle, we are not going to find workable solutions.

Sincerely,

A handwritten signature in black ink, reading "Allen Dusault". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Allen J. Dusault  
Program Director